

**THE MINUTES
FOR THE JULY 6, 2010
MEETING OF THE BOARD OF TRUSTEES
OF THE INCORPORATED VILLAGE OF NORTHPORT
MEETING AT 6:00 P.M.**

Present: Mayor Doll, Trustees Kehoe, Maline, McMullen, Village Clerk Donna Koch, and Village Attorney James Matthews.

Absent: Trustee Tobin

ANNOUNCEMENTS: Mayor Doll announced the passing of Tom Newton. Tom was a member of the Architectural and Historic review Board. Stating even in the later stages of ALS, Tom still had the courage to continued attending meetings and he will be missed.

PRESENTATIONS: The Board presented Artie Glad with a proclamation on his recent nomination of Suffolk County's Tavern and Restaurant Owners Associations 2010 Restaurateur of the Year.

PUBLIC HEARING(S) Mayor Doll asked the Clerk to read the notice of Public Hearing to wit:

PLEASE TAKE NOTICE: that a Public Hearing of the Village Board of Trustees will be held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 6th day of July, 2010, to consider the following proposed local law:

**PROPOSED LOCAL LAW "F" OF 2010
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT
TO AMEND CHAPTER 239, SEWERS,
TO ADD SECTION 239-29, SEWER RENTS OF THE CODE OF
THE INCORPORATED VILLAGE OF NORTHPORT**

BE IT ENACTED: By the Board of Trustees of the Village of Northport as follows:

Section 1. Legislative Intent

The Board of Trustees finds that amending the Zoning Code of the Village to impose sewer rents upon the owners of property discharging into the Northport Sewerage System will more fairly

distribute the costs of said system among users and non-users.

Section 2. Statutory Authority and Supersession

This Local Law is adopted pursuant to New York State Village Law, Municipal Home Rule Law, Article 14-F of the New York State General Municipal Law and the State Environmental Quality Review Act and its implementing regulations and expressly supersedes inconsistent provisions of the Village Code.

Section 3. Applicability

The provisions of this Local Law shall apply as set forth in the amendments.

Section 4. Amendments

The code of the Incorporated Village of Northport shall be amended as follows:

Chapter 239-29. Sewer Rents

§239-29. 1. Purpose and intent.

Pursuant to Article 14-F of the New York State General Municipal Law, there is hereby established and imposed a system of sewer rents applicable to the Village Sewerage System in accordance with the provisions of this article, and which shall consist of annual charges assessed against properties that discharge into the Village Sewerage System. The aggregate annual sewer rents as provided in this article shall be applied to pay a portion of the costs of the operation, maintenance and repair of the sewerage system of the Incorporated Village of Northport.

§239-29. 2. Definitions.

Part. As used in relation to the term "sewerage system," all lateral sewers, all branch sewers, all interceptor sewers, all trunk sewers, and any sewage treatment and disposal works, each part with necessary appurtenances including sewage pumping stations.

Property. Real property that may consist of one or more tax lots or a division thereof, any improvement to or item thereon, or any division of an improvement such as an dwelling unit or commercial enterprise that receives water.

Sewage. The water-carried human or animal wastes, and any liquid waste whether or not containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution from residences, buildings, commercial and industrial establishments, or other places, together with such ground water infiltration and surface water as may be present.

Sewer rents. A scale of annual charges established and imposed by the Village of Northport for the use of the municipal sewerage system or any part or parts thereof. Such charges may be based on the consumption of water on the premises connected with and served by the sewerage system or such part or parts thereof, or upon any other equitable basis determined by The Board of Trustees, including but not limited to any combination set forth in Article 14-F of the New York State General Municipal Law. The overall amount to be collected shall be determined by the Board of Trustees and included in the annual adopted budget.

Sewer user. Any person or entity that is responsible for either or both:

1. Directly paying a water source, or
2. Controlling the receipt of water from any water source, for water delivered to a property from which sewage is discharged into Northport's municipal sewerage system.
3. While owner(s) of property may charge tenants for this sewer rent, the owner(s) shall be solely liable to the Village for payment of sewer rents and the failure of tenants to reimburse a property owner(s) shall not be a defense to the obligation to pay sewer rents charged hereunder.

Total water delivered. Shall mean the total volume of water delivered to a property by all water sources over the course of one year, for which a sewer user is responsible. The total volume of water shall be the sum of the volume of water metered by, or otherwise calculated by, the water source(s). The Village of Northport shall estimate any portion of the total water delivered if no metered or estimated volume is obtainable from the water source.

Water source. Any entity that delivers water to a property such as Suffolk County Water Authority, as well as any other source of water delivered to a property including such source as a well, whether or not that water is drawn from said property.

§239-29.3. Sewer rent fund.

In accordance with Article 14-F of the New York State General Municipal Law, revenues derived from sewer rents, including penalties and interest, shall be credited to a special fund, to be known as the "sewer rent fund." Moneys in such fund shall be used in the following order:

- A. For the payment of a portion of the costs of operation, maintenance and repairs of the sewerage system of the Incorporated Village of Northport.
- B. For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sewerage system or such part or parts thereof for which sewer rents have been established and imposed (other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).
- C. For the construction of sewage treatment and disposal works with necessary appurtenances

including pumping stations, or for the extension, enlargement, or replacement of, or additions to, such sewerage systems, or part or parts thereof. Such revenues from sewer rents shall not be used (1) to finance the cost of any extension of any part of a sewerage system (other than any sewage treatment and disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of real property especially benefited, or (2) for the payment of the interest on, and the amortization of, or payment of, indebtedness which is to be paid in the first instance from assessments upon benefited real property.

§239-29.4. Sewer rents.

A. The annual sewer rent due from each property owner(s) of a property discharging into the sewerage system shall be based on the amount of water in gallons delivered to the sewer user as adjusted in accordance with this chapter. A per gallon rate shall be calculated by dividing the total water usage in gallons of all properties connected to the sewer system that are liable for sewer rents by the total revenues to be collected for sewer rents as set by the Board of Trustees in the most recently adopted annual budget.

B. The water usage for residential properties shall be reduced by 10% in consideration of water uses that are not discharged into the sewer system.

C. Commercial property owners may apply to the Board of Trustees for an adjustment of the amount of their water usage which is used to calculate the sewer rents due hereunder. Such application shall include all evidence to establish the degree and amount of water usage which is claimed to be applied for uses, such as watering plants or lawns, which does not result in discharges into the sewage system. The Board may grant an adjustment of up to 10% of the water usage depending on the volume of water usage it finds is not discharged into the sewerage system. Deadlines for requesting this adjustment shall be determined by the Board of Trustees with written notice by regular mail to all commercial properties and notices posted in Village Hall and on the Village website.

D. For the purposes of this chapter, residential properties are all properties solely devoted to residential dwelling usage. All other properties, including those which have combined residential and commercial use, shall be classified as a commercial property for the purposes of this chapter.

E. Sewer rents shall constitute a lien upon the real property served by the sewerage system or such part or parts thereof for which sewer rents shall have been established and imposed. The lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the state or a political subdivision or district thereof.

F. The Board of Trustees of the Incorporated Village of Northport, may bring and maintain an action (a) as upon contract for sewer rents in arrears, including penalties and interest, or (b) to foreclose liens for such sewer rents. As an alternative to the maintenance of any such action, the

Board of Trustees, as the case may be, may annually cause a statement to be prepared setting forth the amount of each lien for sewer rents in arrears, the real property affected thereby and the name of the person in whose name such real property is assessed. Such statement shall be presented to the Board of Trustees, as the case may be, on or before a date to be specified by such board. Such board shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as city, village, county or town taxes, as the case may be, and such amounts shall be set forth in a separate column in the annual tax rolls. The amounts so levied shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of city, village, county or town taxes, as the case may be.

G. Prior to the adoption of a final budget for each year, the Board of Trustees of the Village of Northport shall determine the total annual costs of operation and maintenance of the sewerage system that are necessary to maintain the capacity and performance of the sewerage system and the portion thereof that shall be charged to the users of the sewer system. The determination of such costs shall serve as the basis for the calculations of sewer rents.

H. The sewer rents shall be based on the amount of water delivered to properties connected to the Village sewerage system, which are liable for sewer rents hereunder. The Village shall obtain readings from water sources, such as the Suffolk County Water Authority to determine the amount of water delivered to each sewer user.

I. The properties owned by the Incorporated Village of Northport shall be exempt from Sewer Rents.

J. Properties located outside of the territorial limits of the Incorporated Village of Northport which are connected to the Village Sewerage system are liable for charges in accordance with the terms of existing agreements with the Village and are not in addition liable for sewer rents unless authorized by existing or subsequently amended agreements.

§239-29.5. Power to impose other charges.

Subject to the provisions of New York State Municipal Code, the establishment and imposition of sewer rents shall not prevent the use of other revenues of the Village of Northport for the payment of a part of the costs, for any fiscal year, of operation, maintenance and repairs of the sewerage system or any part or parts thereof for which sewer rents have been established and imposed or for the payment of interest on and amortization of, or payment of, indebtedness therefore.

§239-29.6. Applicability.

All real property connected to the Village sewerage system shall be subject to such sewer rents as may be imposed or levied pursuant to this chapter, except for properties identified in §239-29.4(I) and (J) herein. The Owner(s) of said real property liable for sewer rents shall be responsible to the Village for payment of sewer rents.

§239-29.7. Sewer utilization forms.

A. Sewer users and the owner of every property using the Village sewerage system shall file sewer utilization forms to obtain information regarding discharges into the sewerage system. Each form shall contain a sworn statement made by the sewer user and owner with full knowledge of the facts disclosed and shall be bound to the truthfulness and accurate disclosure of the information under penalty of law. The Village may require no more than one such form from each sewer user and property owner annually unless special circumstances require an additional form or further information.

B. As to any property, which has had a change of use, an updated sewer utilization form must be filed within thirty (30) days of official permanent change. For the purposes of this section, “change of use” shall mean the change of use from residential to commercial or vice versa of any portion of the property, or a change of use from one commercial use to another where the new commercial use has a greater parking requirement under the zoning code of the Village.

C. A separate sewer utilization form shall be filed by each of the commercial establishments, associations, clubs, marinas, apartment buildings, single-family, two-family, three-family and multi-family residences and offices, which includes each and every separate entity for-profit and not-for-profit.

D. The penalty for the failure to file the certificate shall be \$100.00 for each thirty (30) day period the certificate is not filed.

E. The Village Assessor shall make the final determination as to the classification of each property.

§239-29.8. Appeals.

A sewer user may apply to the Board of Trustees for review of any determinations made by Village officials under this chapter. Determinations by the Board of Trustees are subject to judicial review pursuant to Article 78 of the New York Civil Practice Law and Rules.

§239-29.9 Calculations; Bills and Payments; Penalty for late payment; Liens and collection.

A. The sewer rents shall be billed annually on the first of September of each year.

B. Bills and payments.

- (1) Residential: Bills for the sewer rent will be mailed to the residential owners of all Village sewer connections on an annual basis.
- (2) Commercial: Bills for the sewer rent will be mailed to the commercial owners of all Village sewer connections on an annual basis.
- (3) All bills shall be due and payable without penalty within thirty (30) days of rendering.

D. A penalty will be levied against the unpaid sewer rents and shall be added to the delinquent amount.

- (1) One and one-half percent charge per month on sewer rent bill, beginning thirty-one (31) days after the date of the bill. The penalty shall be added for each succeeding month or any portion of a month in which the sewer rent is not paid.
- (2) Notwithstanding the foregoing, for good cause shown the Board of Trustees may waive or reduce the penalty for the late payment of 2010-2011 sewer rents, provided payment is made no later than November 1, 2010.

E. Liens and collections.

- (1) In accordance with New York State General Municipal Law Section 452, unpaid sewer rents, penalties and interest shall become a lien upon the real property.
- (2) Delinquent accounts shall be collected in a manner provided for in the General Municipal Law and this article.

§239-29.10. Consistency with General Municipal Law.

This article shall be construed in a manner consistent with the provisions of Article 14-F of the New York State General Municipal Law.

Section 5. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional, or invalid parts therein.

Section 6. SEQRA

The Board of Trustees has determined that pursuant to §617.5(c) 20 and 27 of the SEQRA regulations this action of the Village of Northport is "routine or continuing agency administration and management, not including new programs or major reordering of priorities" and "adoption of regulations, policies, procedures and local legislative decisions in connection with any Type II action . . ." and therefore, the proposed action of the Village of Northport in this matter is a Type II action and requires no further action pursuant to SEQRA.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State. On the motion of Trustee McMullen and seconded by Trustee Kehoe the Public Hearing was opened.

Trustee Kehoe explained that user fees are nothing new. They are a way to raise

revenues for a municipality in lieu of taxes. The up keep and maintenance of the sewer plant come from property taxes. Only about 15% of the Village is hook up to the plant. In a prefect would everyone would be hooked up. But we don't have that kind of money. Our sewer lines on Woodbine and Bayview go back to the twenties. They need to be scoop and slip lined. This is not an attempt to recover the total costs of maintaining the plant but to recover some of the fees without adding more taxes to everyone across the Board. The Board has all agreed this is something that had to be done.

Mayor Doll reported that in 1929 the Village Board voted to create a sewer system. The estimated cost at the time was \$15,000. It was determined that the residents that would be serviced by the system would pay 80% of its costs to build it and run it. The reason for the 80/20 split was that the users should pay the lions share but that everyone would benefit because it would eliminate pollution in the harbor. Every Village resident pays 7.3% of their tax bill to the cost of maintaining and running the sewer plant that services only 730. It costs the Village \$681,000 a year to operate the plant along with paying back the bonds on the upgrade done a couple of years ago. We have improvements that need to be done this year and we need to purchase new generators. The cost of replacing the sewer lines that run along the water's edge on Woodbine Ave will be around \$500,000.

Artie Glad of Pumpernickels restaurant explained he was not on the sewer system and pays over \$700. a month to have his cesspools serviced.

Frank Cavagnaro explained to the Board that in Johnstown Rhode Island everyone is charge a sewer fee by a charge per toilet.

Pete Panarites stated he felt the costs should be shared throughout the whole Village.

Judy Gorevic, stated since she had sewer lines running through her property would the Village make and consideration for that or can the homeowner charge the Village a rental fee for that usage. Village Attorney James Matthews stated when the sewer lines were put in all the acquisitions were acquired. Any compensation would have been made back then.

Lee Holcomb stated he owns both residential and commercial property in the Village. He would like to see one set price. Tell him how much and he'll pay it. These crazy calculations are making the residents nuts.

Dave Weber questioned how much the Town is paying for usage of our plant. The Town pays a percentage of the gallons taken into the plant.

Peter Homier, the general manager for Brittannia Marina stated in his case 90% of his water usage does not go into the sewer. It goes into boats and into the water (such as boat washing).

Betty Koerner stated she was happy the Village has finally started the process of charging the people on the sewer lines. This at least levels the playing field.

Mr. Fink stated it's a bad idea. The people hooked up are going to end up paying more and more.

Sandy Farb stated she is not hooked up to the sewer and pays more in a sewer tax then someone that is hooked up.

Lisa Mortormore questioned if all the collected funds will go towards the sewer plant.

The Mayor answered yes that's the way the legislation is written.

On the motion of Trustee McMullen and seconded by Trustee Kehoe the public hearing

will be continued on July 20, 2010 at 6:00 PM, at the Village Hall.

PUBLIC PARTICIPATION: Frank Cavagnaro addressed the Board regarding the Chamber renting out sidewalk space for the August Tuesday Night Happenings. Mr. Cavagnaro, stated the Chamber does not have the right to do this. Mr. Cavagnaro handed in a petition from store owners against being charged this fee. Mr. Cavagnaro stated the Village should be collected the fee and if they want can then hand it over to the chamber. Mayor Doll stated the Chamber did not have the authority to hand out this permit application. Mayor Doll also stated that if you're a store owner and are not going to use the front of their store and don't want anyone else to use the space, then that space will not be permitted to anyone else.

BOARD APPROVAL OF WARRANT:

On the motion of Trustee Kehoe and seconded by Trustee McMullen the following bills were approved for payment.

Fiscal Year 2010/2011 General Fund bills in the amount of \$ 122,604.88

On the motion of Trustee Kehoe and seconded by Trustee Maline the following bills were approved for payment.

Fiscal Year 2010/2011 Capital Fund bills in the amount of \$ 74,381.20

TREASURER REPORT: In the interest of no Treasurer report was presented this evening.

COMMISSIONER REPORTS: In the interest of no Commissioner reports was presented this evening.

CHIEF OF POLICE REPORT: In the interest of no Chiefs report was presented this evening.

SUPERINTENDENT REPORT: In the interest of no Superintendent's report was presented this evening.

NEW BUSINESS: no new business was discussed.

OLD BUSINESS: no old business was discussed.

REQUESTS: 1. Request from the Cow Harbor Day committee to hold the 33rd annual Cow Harbor Run September 25th, 2010 was approved.

CORRESPONDENCE: no correspondence.

RESOLUTIONS:

On the motion of Trustee McMullen and seconded by Trustee Maline the following resolution was unanimously approved.

RESOLUTION 2010 – 114 ~ APPROVAL OF THE JUNE 15, 2010 MINUTES

WHEREAS: Copies of the minutes of the June 15, 2010, meeting were sent to the Board for approval, therefore,

BE IT RESOLVED that said minutes are approved without reading, at this time.

The following resolution was put on hold until further notice.

RESOLUTION 2010 – 115 LOCAL LAW No. 7 OF 2010

WHEREAS: that a Public Hearing of the Village Board of Trustees was held at the Village Hall, 224 Main Street, Northport, New York at 6:00 o'clock in the evening of the 6th day of July, 2010, to consider the following proposed local law:

**LOCAL LAW No. 7 OF 2010
A LOCAL LAW OF
THE VILLAGE OF NORTHPORT
TO AMEND CHAPTER 239, SEWERS,
TO ADD SECTION 239-29, SEWER RENTS OF THE CODE OF
THE INCORPORATED VILLAGE OF NORTHPORT**

The following resolution was put on hold until further notice.

RESOLUTION 2010 – 115 KVS BILLING MODULE

BE IT RESOLVED: the Mayor is hereby authorized to sign a purchase agreement with KVS Software for the purchase of the Utility Billing module at a cost not to exceed \$16,000.

On the motion of Mayor Doll and seconded by Trustee Kehoe the following resolution was unanimously approved.

RESOLUTION 2010- 116 BOND RELEASE

WHEREAS: On June 22, 2010, the Planning Board adopted a resolution recommending the release, with conditions, of the J. Petrocelli Contracting, Inc. (principal) Arch Insurance Company (surety) Bond No. SU1103047, submitted for TD Bank Site Plan #50 (formerly Commerce Bank), and

WHEREAS: The condition being that an appropriate amount be released to the Village in lieu of providing the required Monument ID Sign, and

WHEREAS: J. Petricelli Contracting, Inc. submitted Check # 83184 in the amount of \$4,000 and requests release of the bond, now therefore

BE IT RESOLVED: That the Arch Insurance Company Bond (Bond No. SU1103047) submitted by J. Petrocelli Contracting, Inc., for Commerce Bank Site Plan #50, is hereby released, and

BE IT FURTHER RESOLVED: That the Board of Trustees accepts the payment of \$4,000 in lieu of providing the Monument ID sign.

On the motion of Trustee Kehoe and seconded by Trustee Maline the following resolution was unanimously approved.

RESOLUTION 2010- 117 BOARD OF ARCHITECTURAL & HISTORIC REVIEW

BE IT RESOLVED: Steven King is hereby appointed to the Board of Architectural & Historic Review to fill the unexpired term of Tom Newton. (term to expire 4/12)

A RESOLUTION FOR AN EXECUTIVE SESSION: if necessary, for personnel and/or litigation matters.

The next regular meeting of the Board of Trustees will be on Tuesday August 3, 2010 at 6:00 PM. Northport Village Hall 224 Main Street Northport, NY 11768

Respectfully submitted,

Donna M. Koch, Village Clerk